WP(C) 3837/2007
BEFORE
HON'BLR MR JUSTICE AMITAVA ROY

The grievance registered is against denial of financial assistance to th e petitioners Schools in terms of the Government policy promulgated therefor.

Heard Mr. KA Mazumdar, learned counsel for the petitioners and Mr UK Gos wami, learned Standing counsel, Education Department for the official respondent s.

The petitioners schools are located in the district of Dhemaji, Assam. Those have in clear terms disclosed the dates of establishment conten ding inter-alia that from time to time the concerned authorities of the Educatio n Department of the State have been conducting inspection of the institutions. F urther, though under the aforementioned policy, needy venture Middle English Sc hools have been decided to be extended financial assistance, the petitioners sc hools though senior in terms of their establishment, have been left out and vide the impugned order dated 24.2.2006 financial grant has been sanctioned to schoo ls established later. On the said pleadings, the petitioners have prayed for a writ of mandamus directing the respondents authorities to provide financial ass istance to the institutions as per the policy and criteria prescribed therein.

The state respondents have not filed any affidavit to rebut the above a verments. The learned counsel for the respondents have fairly submitted that in the face of the Government policy and the parameters contained therein for dete rmining the eligible educational institutions to be entitled to the financial as sistance comprehended therein, the respondent authorities are obliged in law to conform to the same.

I have extended my consideration to the rival submissions and the materi als available on record. This Court amongst others in W.P.(C) No. 4278/2004, All Assam Recognized Middle English Teachers Association versus the State of Assam, and others, while exhaustively dwelling on the Cabinet Memorandum dated 9-6-200 5 engrafting the policy to provide financial grant to educational institutions a nd the criteria adopted therefor had ruled that the selection of such institutio ns would be primarily on the basis of seniority as per the date of recognition/c oncurrence as applicable deviation wherefrom would be permissible in respect of institutions with disadvantageous locations like border areas, char areas, tea a nd ex-tea garden areas, areas predominated by weaker sections of the society lik e SC, ST, OBC and minorities, where in the opinion of the Government, there is u rgent need to set up educational institutions. Relaxation on this count may also be considered keeping in view the specific need for girls education in some are as. Performance of the educational institutions and their

enrolments shall also be taken into account into in selection of the schools for financial assistance. This Court, however, made recording of reasons to be obli gatory in case of flexing of the fundamental criteria of seniority in the above eventualities. Incidentally, a Division Bench of this Court has also upheld the said determination.

In the above factual premise there is no escape from the conclusion that for ascertaining an educational institution to be eligible for the financial gr ant, the primary touchstone would be that of seniority thereof determinable by t he date of its establishment/recognition/concurrence, as the case may be and tha t the other conditions permitting relaxation thereof, can be resorted to for rea sons to be recorded.

In the above view of the matter, I consider it to be in the interest of justice to close this petition with the direction to the state respondents, more particularly, the Commissioner and Secretary, Government of Assam, Educatio n Department(Elementary) and Director of Elementary Education, Assam to cause im mediate steps to examine the petitioners' claim in the touchstone of the extant Government policy and if on such scrutiny, these are found to satisfy the condit

ions of eligibility mentioned therein, they would take appropriate decision(s) to redress their grievances in accordance with law. This exercise as ordered above should be completed within a period of 6(six) weeks, from the date of receipt of the certified copy of this order. No costs.